

CIRCUIT COURT OF LONOKE COUNTY, ARKANSAS

DIVISION 3

2012 NOV 20 AM 9:39

LONOKE COUNTY CIRCUIT CLERK
DENISE BROWN

ANDREW PENSON AND
CRYSTAL PENSON

BY  PLAINTIFFS D.C.

VS.

CASE NO. CV 2012-706

MONTY LAYNE HAMILTON; and
TENNESSEE STEEL HAULERS, INC.

DEFENDANTS

COMPLAINT

Come Plaintiffs, Andrew Penson and Crystal Penson, and for their Complaint against Defendants Monty Layne Hamilton and Tennessee Steel Haulers, Inc., state as follows:

1. Plaintiffs are husband and wife, and residents of Ward, Lonoke County, Arkansas.
2. Separate Defendant Monty Layne Hamilton is a resident of Cookeville, Tennessee. Monty Layne Hamilton was, at all relevant times to this Complaint, and agent or employee of Tennessee Steel Haulers, Inc., and was acting within the course and scope of his employment at the time of the occurrence described below.
3. Separate Defendant Tennessee Steel Haulers, Inc. is an interstate motor carrier incorporated in the state of Tennessee and registered to do business in the state of Arkansas. Tennessee Steel Haulers, Inc.'s principal place of business is Nashville, Tennessee.
4. On April 15, 2012, Plaintiff was a passenger in an automobile owned and driven by his wife Crystal, traveling west on Interstate 40 in Lonoke County,

Arkansas. Crystal was in the process of passing a tractor truck pulling a flatbed trailer which was owned and/or operated by Defendants, and which was also proceeding west, in the right lane of traffic.

5. As Plaintiffs' vehicle passed Defendants' vehicle, Defendant Monty Lane Hamilton steered his tractor truck into the left lane occupied by Plaintiffs' vehicle, which caused Crystal to swerve, lose control of her vehicle, and strike Defendants' flatbed trailer. Plaintiffs' vehicle came to rest approximately 40 feet off the north side of the interstate.
6. Plaintiff Andrew Penson suffered numerous injuries as a result of the collision with Defendants' vehicle, including injuries to his body, which in turn have caused him to incur past and future pain, suffering and mental anguish, past and future medical expenses, past and future loss of mobility and functionality, loss of earning capacity, loss of educational opportunities and diminished quality of life. Plaintiff Crystal Penson suffered property damage to her vehicle, which was a total loss as a result of the incident.
7. Defendants were guilty of negligence which was a proximate cause of the damages sustained by Plaintiffs. Specific acts of negligence include, but are not limited to, the following:
 - a. Failing to keep a proper lookout;
 - b. Failing to keep the truck and trailer under proper control;
 - c. Crossing into the left lane of traffic into the path of Plaintiffs' vehicle;
 - d. Failing to obey the rules of the road;

- e. Failing to have and/or follow appropriate policies and procedures for drivers with respect to changing lanes;
 - f. Failing to properly select, train, screen, supervise and test drivers;
 - g. Failing to act prudently with respect to the operation of a commercial motor vehicle; and
 - h. Failing to use reasonable care under the circumstances.
8. Additionally, Defendants knew or ought to have known, in light of the surrounding circumstances, that their conduct would naturally and probably result in injuries and damage, and they continued such conduct in reckless disregard of the consequences from which malice may be inferred, and which is imputed to Tennessee Steel Haulers, Inc. by virtue of the doctrine of *respondeat superior*. Accordingly, Plaintiffs are entitled to judgment jointly and severally against Defendants for punitive damages in an amount which is sufficient to punish Defendants and to deter them and others from similar conduct in the future.
9. Plaintiffs are entitled to a joint and several judgment against Defendants for all general and special compensatory damages caused by the conduct of Defendants, in an amount exceeding the minimum amount required for federal court diversity jurisdiction in diversity of citizenship cases. Additionally, Plaintiffs are entitled to a joint and several judgment against Defendants for punitive damages, as set forth in the preceding paragraph.
10. Plaintiffs demand trial by jury on all issues.

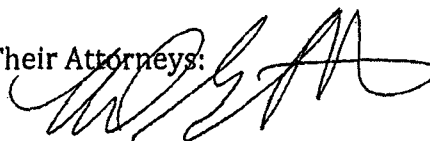
WHEREFORE, Plaintiffs pray for judgment against Defendants, jointly and severally,

for the damages and in the amount set forth in paragraphs 6 and 8; and for all other relief
to which they may be entitled.

ANDREW PENSON AND CRYSTAL PENSON

Plaintiffs

By Their Attorneys:

A handwritten signature in black ink, appearing to read 'MGS', is written over a horizontal line.

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